

Regular Session, 2010

HOUSE BILL NO. 38

BY REPRESENTATIVE CONNICK

CIVIL/DISCOVERY: Provides relative to the recordation of testimony during depositions

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 1443(B), relative to the recordation
3 of testimony, questions, objections, and other statements during depositions; to
4 require recordation during depositions except under certain circumstances; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 1443(B) is hereby amended and
8 reenacted to read as follows:

9 Art. 1443. Examination and cross-examination; record of examination; oath;
10 objections

11 * * *

12 B. All objections made at the time of the examination to the qualifications
13 of the officer taking the deposition, or to the manner of taking it, or to the evidence
14 presented, or to the conduct of any party, and any other objection to the proceedings,
15 shall be noted by the officer upon the deposition. The officer shall cease or suspend
16 recordation of the testimony, questions, objections, or any other statements only
17 upon agreement of all counsel and parties present at the deposition, or upon
18 termination or suspension of the deposition pursuant to Code of Civil Procedure
19 Article 1444. Any objection during a deposition shall be stated concisely and in a
20 non-argumentative and non-suggestive manner. Evidence objected to shall be taken

1 subject to the objections. Counsel shall cooperate with and be courteous to each
2 other and to the witness and otherwise conduct themselves as required in open court
3 and shall be subject to the power of the court to punish for contempt. In lieu of
4 participating in the oral examination, parties may serve written questions in a sealed
5 envelope on the party taking the deposition, and he shall transmit them to the officer,
6 or anyone authorized to take oaths, who shall propound them to the witness and
7 record the answers verbatim.

8 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 38

Abstract: Requires recordation of all testimony, questions, objections, and any other statement during depositions except upon order of the court or agreement of all parties and counsel to terminate or suspend recordation.

Present law provides that examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the La. Code of Evidence, and that the officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness.

Present law provides that all objections made at the time of the examination shall be noted by the officer upon the deposition, that any objection during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner, that evidence objected to shall be taken subject to the objections, and that counsel shall cooperate with and be courteous to each other and to the witness and otherwise conduct themselves as required in open court and shall be subject to the power of the court to punish for contempt.

Proposed law retains present law and requires that the officer shall cease or suspend recordation of the testimony, questions, objections, or any other statements only upon agreement of all counsel and parties present at the deposition, or upon termination or suspension of the deposition pursuant to C.C.P. Art. 1444.

(Amends C.C.P. Art. 1443(B))